

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

Case No. 17-124

**ERNEST A. SELLERS, JR., as Personal
Representative of The Estate of A.S.,
a deceased minor**

Plaintiff,

vs.

**PARTNERSHIP FOR STRONG,
FAMILIES, INC., FAMILY
PRESERVATION SERVICES OF
FLORIDA, INC., FAMILY
PRESERVATION SERVICES OF
FLORIDA, INC. d/b/a PROVIDENCE
HUMAN SERVICES OF FLORIDA,
FAMILY PRESERVATION SERVICES
OF FLORIDA, INC. d/b/a PATHWAYS HUMAN
SERVICES OF FLORIDA, PATHWAYS
HEALTH AND COMMUNITY SUPPORT
SERVICES OF FLORIDA, INC. D/B/A
PATHWAYS HUMAN SERVICES
OF FLORIDA, MOLINA HEALTHCARE, INC.,
MOLINA HEALTHCARE OF FLORIDA, INC.,
and CHERIESE BROWN, individually**

Defendants.

COMPLAINT

The Plaintiff, ERNEST A. SELLERS, JR., as Personal Representative of the Estate of A.S., a deceased minor, by and through undersigned counsel, hereby sues the Defendants, PARTNERSHIP FOR STRONG FAMILIES, INC., FAMILY PRESERVATION SERVICES OF FLORIDA, INC., FAMILY PRESERVATION SERVICES OF FLORIDA, INC. D/B/A PROVIDENCE HUMAN SERVICES OF FLORIDA, FAMILY PRESERVATION SERVICES OF FLORIDA, INC. D/B/A PATHWAYS HUMAN SERVICES OF FLORIDA, PATHWAYS

HEALTH AND COMMUNITY SUPPORT OF FLORIDA, INC. D/B/A PATHWAYS HUMAN SERVICES OF FLORIDA, MOLINA HEALTHCARE, INC., MOLINA HEALTHCARE OF FLORIDA, INC., and CHERIESE BROWN and alleges:

JURISDICTION

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1343, as an action brought pursuant to 42 U.S.C. § 1983, and pursuant to 28 U.S.C. § 1331, as a case brought pursuant to the Constitution and the laws of the United States. The Court has pendent jurisdiction over Plaintiff's state law claims arising under the laws of Florida.

THE PARTIES

2. Plaintiff ERNEST A. SELLERS, JR., is the duly appointed Personal Representative of the Estate of A.S., having been appointed by Letters of Administration entered by the Circuit Court, in and for Alachua County, Florida on or about May 5, 2017.

3. The deceased minor child, A.S., whose date of birth was October 22, 1998, and whose date of death was May 14, 2015, was at all times relevant hereto a minor child placed in the legal and physical custody of the State of Florida.

4. Due to the nature the allegations set forth herein below and A.S.'s status as a minor foster child, this case is filed using a pseudonym.

5. Defendant PARTNERSHIP FOR STRONG FAMILIES, INC. (hereinafter "PSF") is a Florida Corporation operating its business in Alachua County, Florida.

6. At all times material hereto, PSF was the lead agency for community-based care in Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Madison, Suwannee, Taylor and Union Counties, Florida pursuant to §§ 409.1671 and/or 409.993, Florida Statutes, and contracted with the Florida Department of Children and Families (the "Department")

to provide foster care and related services to children in the custody of the State of Florida, including A.S.

7. At all times material hereto, PSF was required to comply with all federal laws, Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, PSF Policies and Procedures, and the common law, to ensure the health, welfare, and safety of children in the custody of the State of Florida, including A.S.

8. At all times material hereto, PSF was an independent contractor of the Department with regard to its duty to operate the system of foster care and related services for children in Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Madison, Suwannee, Taylor and Union Counties, including providing adoption services, post-adoption services, an appropriate system of care, and placements.

9. At all times material hereto, PSF subcontracted out the provision of case management services in Alachua County.

10. Defendant, FAMILY PRESERVATION SERVICES OF FLORIDA, INC., is a Florida Corporation operating its business in Alachua County, Florida.

11. Defendant, FAMILY PRESERVATION SERVICES OF FLORIDA, INC. d/b/a PROVIDENCE HUMAN SERVICES OF FLORIDA, was a Florida Corporation operating its business in Alachua County, Florida.

12. Defendant, FAMILY PRESERVATION SERVICES OF FLORIDA, INC. d/b/a PATHWAYS HUMAN SERVICES OF FLORIDA, is a Florida Corporation operating its business in Alachua County, Florida.

13. Defendant, PATHWAYS HEALTH AND COMMUNITY SUPPORT OF FLORIDA, INC. d/b/a PATHWAYS HUMAN SERVICES OF FLORIDA was a Florida Corporation operating its business in Alachua County, Florida.

14. Defendant, MOLINA HEALTHCARE, INC. is a Foreign Corporation operating its business in Alachua County, Florida.

15. Defendant, MOLINA HEALTHCARE OF FLORIDA, INC. is a Florida Corporation operating its business throughout the State of Florida.

16. At all times material hereto, FAMILY PRESERVATION SERVICES OF FLORIDA, INC., FAMILY PRESERVATION SERVICES OF FLORIDA, INC. d/b/a PROVIDENCE HUMAN SERVICES OF FLORIDA, FAMILY PRESERVATION SERVICES OF FLORIDA, INC. d/b/a PATHWAYS HUMAN SERVICES OF FLORIDA, PATHWAYS HEALTH AND COMMUNITY SUPPORT OF FLORIDA, INC. d/b/a PATHWAYS HUMAN SERVICES OF FLORIDA, MOLINA HEALTHCARE, INC., and/or MOLINA HEALTHCARE OF FLORIDA, INC. (collectively referred to as “FPS”), contracted with PSF pursuant to §§ 409.1671 and/or 409.993, Florida Statutes, to provide foster care and related services, including, but not limited to, case management services, to children in the custody of the State of Florida in Alachua County, including A.S.

17. At all times material hereto, FPS was an independent contractor of PSF with regard to its duty to provide foster care and related services, including case management services, to foster children in Alachua County.

18. Pursuant to the contractual arrangements between the Defendants, at all times material hereto, PSF and FPS, through their agents and employees, were not acting as officers, employees or agents of the State of Florida for purposes of § 768.28, Florida Statutes.

19. At all times material hereto, PSF was required to monitor the performance of FPS regarding the provision of case management services to ensure compliance with all federal laws, Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, PSF Policies and Procedures, FPS Policies and Procedures, and the common law, to ensure the health, welfare, and safety of children in the custody of the State of Florida, including A.S.

20. At all times material hereto, Defendant CHERIESE BROWN (hereinafter “BROWN”) was employed by PSF and/or FPS as a case worker, case manager, and/or family care counselor, and was obligated to comply with all federal laws, Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, PSF Policies and Procedures, FPS Policies and Procedures, and the common law, regarding children in the custody of the State of Florida, including A.S.

21. At all times material hereto, Defendant BROWN had the ability, authority and means to ensure that A.S. was placed in an appropriate secure placement that could keep her safe and provided with treatment based upon professional judgment. She is being sued in her individual capacity.

22. At all times material hereto, Defendant BROWN was deliberately indifferent to A.S.’s serious medical, mental health, behavioral, psychological, and emotional needs.

23. At all times material hereto, an apparent agency relationship existed between PSF and FPS wherein employees of these agencies, including but necessarily limited to BROWN, held themselves out to be employees of PSF and represented that they were employees of PSF through their affirmative actions, which included but were not limited to, utilizing PSF email addresses, signing emails as PSF representatives, signing emails with PSF contact information in their

signature block, working out of the PSF offices, signing documents as PSF representatives, using PSF letterhead, and informing clients they were PSF employees.

24. At all times material hereto, PSF consented to and authorized FPS employees, including, but not limited to BROWN to hold themselves out to be employees of PSF.

GENERAL ALLEGATIONS

25. In or about 2005, A.S. and her three siblings were adopted from the Florida child welfare system in Alachua County, Florida.

26. Subsequent to her adoption, A.S. began displaying escalating emotional and behavioral problems in her adoptive home indicating A.S. had significant mental health issues including, but not limited to, wetting herself; hiding soiled clothing, feces, and used feminine products in her room; running away from home; and skipping school.

27. In or around July 2014, due to A.S.'s escalating mental health, emotional, and behavioral problems, PSF began providing post adoption services to A.S. and her adoptive parents at the request of A.S.'s adoptive parents.

28. Between July 2014 and August 2014, PSF had knowledge of A.S.'s escalating emotional and behavioral problems in her adoptive home indicating she had significant mental health issues, including, but not limited to, wetting herself; hiding soiled clothing, feces, and used feminine products in her room; first running away from an emergency shelter on multiple occasions and then running away from home on multiple occasions for days at a time; skipping school; using the computer for inappropriate sexual websites; stealing; lying about having a baby; exhibiting manic delusions and paranoia; threatening to harm her adoptive family; threatening to kill everyone in her adoptive family and then kill herself; and that she had been Baker Acted six times between July and August 2014 due to homicidal and suicidal ideations and attempts.

29. Between July 2014 and August 2014, PSF had knowledge that A.S.'s adoptive parents feared for A.S.'s safety, the safety of their other children, and their own safety due to A.S.'s threats and behaviors, that A.S.'s adoptive parents were fearful of A.S. remaining in their home due to her threats of harm, and that A.S.'s adoptive parents and other professionals felt A.S. needed to be placed in a residential treatment facility that could meet her significant mental health needs and keep her safe.

30. On or about August 15, 2014, A.S. was placed in the custody of the State of Florida pursuant to a Shelter Petition which alleged, among other things, that: A.S. had run away from home several times over the past few weeks; A.S. had been Baker Acted multiple times over the past few weeks; A.S. had threatened to harm her adoptive mother if she returned home; A.S. had run away from an emergency shelter multiple times over the past week and was not allowed to return to the shelter; and the adoptive parents would not allow A.S. to return to the home because of A.S.'s threats to the family.

31. On or about August 15, 2014, A.S. was placed in the care and custody of PSF to provide foster care and related services.

32. On or about August 15, 2014, PSF accepted A.S.'s case for services and was responsible for assisting in the decision about the best course of action for A.S., escalating A.S.'s case internally if there was a concern for her safety and well-being, reviewing all documents and information available for A.S., sharing all documents and information available for A.S. with other professionals involved in A.S.'s care and treatment, and making recommendations with respect to appropriate services and placement needs.

33. On or before August 15, 2014, PSF had knowledge that A.S. had serious medical and mental health needs and that she had a history of mental health issues and diagnoses, multiple

suicidal ideations and attempts, homicidal ideations including threatening to kill her adoptive family, placements at emergency shelters, multiple elopement episodes first from an emergency shelter and then from home, elopement episodes from a Baker Act facility, multiple Baker Acts, had engaged sexually inappropriate behaviors, and that A.S. required placement in a residential treatment program to meet her treatment needs and ensure her safety.

34. On or about August 15, 2014, despite knowledge of A.S.'s serious medical and mental health needs, PSF authorized placement of A.S. at a group home which was not a secure facility, which could not meet her serious mental health needs, and which was located in Madison County nearly two hours away from Alachua County.

35. On or before September 9, 2014, PSF assigned A.S.'s case to FPS and BROWN, and FPS and BROWN began providing protective supervision case management services to A.S.

36. On or before September 9, 2014, FPS and BROWN had knowledge that A.S. had serious medical and mental health needs and that she had a history of mental health issues and diagnoses, multiple suicidal ideations and attempts, homicidal ideations including threatening to kill her adoptive family, placements at emergency shelters, multiple elopement episodes first from an emergency shelter and then from home, elopement episodes from a Baker Act facility, multiple Baker Acts, had engaged sexually inappropriate behaviors, and that A.S. required placement in a residential treatment program to meet her treatment needs and ensure her safety, but they allowed her to remain placed in an unsecure group home that could not meet her serious mental health needs and to ensure her safety.

37. On or about September 18, 2014, a Comprehensive Behavioral Health Assessment ("CBHA") was completed for A.S.

38. Upon information and belief, PSF, FPS and BROWN provided incomplete, inaccurate, and insufficient background information to the CBHA assessor and failed to inform the assessor of A.S.'s urgent behavioral, emotional and mental health needs, including but not limited her bizarre behaviors of wetting herself, hiding soiled clothing, feces, and used feminine products in her room; her known suicidal and homicidal ideations and attempts; her multiple Baker Acts; and her multiple runaway episodes from her adoptive home, emergency shelters, and a Baker Act facility.

39. Due to PSF, FPS, and BROWN's failure to relay known critical information to the CBHA assessor, no recommendations were made for behavioral services, for a plan to prevent A.S. from running away and endangering herself, or for A.S. to receive a Suitability Assessment to determine her need for placement in a secure residential treatment facility.

40. On or about October 12, 2014, PSF, FPS, and BROWN had knowledge that A.S. ran away from the unsecure group home she was placed in for the first time while in state custody.

41. Due to A.S.'s history of running away, A.S. was considered a habitual runaway and immediately upon recovering A.S. from runaway status, PSF, FPS, and BROWN were required to staff A.S.'s case to determine the need for further services and/or change in placement, refer A.S. for a mental health evaluation, refer A.S. for a behavioral review or an additional comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and refer A.S. for a Suitability Assessment to determine if she met criteria for placement in a residential treatment facility, but they failed to do so and allowed her to return to the group home where her serious emotional needs could not be met.

42. On or about October 14, 2014, PSF, FPS and BROWN had knowledge that A.S. ran away for the second time since being in foster care, this time from school, and she had to be recovered by the police.

43. Upon A.S. being recovered from runaway status for the second time, PSF, FPS, and BROWN were immediately required to staff A.S.'s case to determine the need for further services and/or change in placement, refer A.S. for a mental health evaluation, refer A.S. for a behavioral review or an additional comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and refer A.S. for a Suitability Assessment to determine if she met criteria for placement in a residential treatment facility, but they failed to do so and allowed her to remain at the group home where her serious emotional needs could not be met.

44. On or about November 14, 2014, PSF, FPS, and BROWN had knowledge that A.S. ran away for the third time in approximately a month, and was not recovered until the following day when she turned herself in to the police.

45. Upon A.S. being recovered from runaway status for the third time, PSF, FPS, and BROWN were required to staff A.S.'s case to determine the need for further services and/or change in placement, refer A.S. for a mental health evaluation, refer A.S. for a behavioral review or a further comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and refer A.S. for a Suitability Assessment to determine if she met criteria for placement in a residential treatment facility, but they failed to do so and allowed her to remain at the group home where her serious emotional needs could not be met.

46. Upon A.S. being recovered from runaway status for the third time, PSF, FPS, and BROWN had knowledge that A.S. stated she did not want to be placed at the group home and threatened to commit suicide or run away again when she was returned to the group home, but PSF and FPS failed to ensure A.S. was Baker Acted and failed to ensure she was referred for a Suitability Assessment to determine if she met criteria for placement in a residential treatment facility to meet her serious medical and mental health needs and to ensure her safety.

47. Between August 2014 and November 2014, in addition to her runaway episodes, PFS, FPS, and BROWN had knowledge that A.S. refused to participate in individual counseling, was disruptive in group sessions, bullied other residents, placed other residents in danger, exhibited defiant and aggressive behaviors, skipped school, threatened to harm her therapist including threatening to throw boiling hot water on her therapist, had to be assigned a new therapist due to these threats, threatened to runaway, was combative with mental health professionals, refused to take medication, her grades were steadily declining, she exhibited unusual, antisocial behaviors that were signs of a serious emotional disturbance including her room having an odor as if she was again hiding feces, urine, and used feminine products, and that her behaviors had progressively deteriorated while placed in the group home.

48. Despite this knowledge, PSF, FPS and BROWN failed to staff A.S.'s case to determine the need for further services and/or change in placement, failed to refer A.S. for a mental health evaluation, failed to refer A.S. for a behavioral review or an additional comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and failed to refer A.S. for a Suitability Assessment to determine if she met criteria for placement in a residential

treatment facility, and instead allowed her to remain at the group home where her serious emotional needs could not be met and where her mental health continued to deteriorate.

49. In November 2014, the group home requested that PSF, FPS, and BROWN remove A.S. from the placement within thirty (30) days due to the group home being unable to prevent A.S.'s runaway behaviors, threats of harm, and antisocial and aggressive behaviors.

50. On or about December 15, 2014, PSF, FPS, and BROWN participated in a permanency staffing for A.S.'s case, had knowledge that the group home had put in a thirty (30) day notice for A.S. to be removed from their facility but noted there was no other placement for A.S., and had knowledge that A.S. was being defiant, combative, rude, and bullying/endangering other children at her placement, had made threats, run away, thrown hot water on her therapist, refused to participate in therapy, and was failing school when she had previously been doing well, but PSF, FPS, and BROWN failed to document a single case action to get A.S. appropriately assessed for services, get her the mental health services she needed in accordance with professional judgment, get her the behavioral support services she needed, or refer her for a Suitability Assessment to determine if she met criteria for placement in a residential treatment facility.

51. On or about December 15, 2014, PSF, FPS, and BROWN had knowledge that A.S. threatened to kill her adoptive parents and documented concerns about A.S.'s mental stability, but failed to take action to ensure A.S. was Baker Acted, refer A.S. for an updated CBHA to re-assess her behavioral and mental health needs, ensure A.S. received services to meet her serious mental health and behavioral needs, or refer A.S. for a Suitability Assessment by a qualified evaluator to determine if she met the criteria for placement in a residential treatment program.

52. On or about December 19, 2014, PSF, FPS, and BROWN authorized placement of A.S. in a temporary therapeutic foster home in Gilchrist County nearly an hour away from Alachua

County, until a permanent placement could be located, but failed to refer A.S. for a Suitability Assessment by a qualified evaluator to determine if she met the criteria for placement in a residential treatment program.

53. On or about January 4, 2015, PSF, FPS, and BROWN authorized placement of A.S. in a therapeutic foster home in Levy County, but failed to refer A.S. for a Suitability Assessment to determine if she met the criteria for placement in a residential treatment program.

54. On or about February 9, 2015, PSF, FPS, and BROWN participated in a Multi-Disciplinary Staffing and despite knowledge that A.S. continued to exhibit the same unusual behaviors as she did prior to coming into foster care, that A.S.'s mental health condition and behaviors had deteriorated while in foster care, and that A.S. had not adequately engaged in her treatment plan or attained any of her treatment goals, documented that A.S. was not having any major behavioral problems, was not displaying aggression or defiance, and decided to reduce A.S.'s level of care from Specialized Therapeutic Foster Care Level II to Level I where she would receive fewer services.

55. On or about March 30, 2015, PSF, FPS and BROWN had knowledge that A.S. ran away from her therapeutic foster home twice which were her fourth and fifth runaway episodes since being in foster care, and that A.S. had to be returned to the foster home by law enforcement each time.

56. Upon A.S. being recovered from runaway status for the fourth and fifth times, PSF, FPS and BROWN were immediately required to staff A.S.'s case to determine the need for further services and/or change in placement, refer A.S. for a mental health evaluation, refer A.S. for a behavioral review or a another comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the

prevention of continued runaway behavior, but they failed to do so and allowed her to remain at the therapeutic foster home where her serious emotional needs could not be met.

57. Between March 2015 and April 2015, PSF, FPS, and BROWN had knowledge that A.S. was engaging in increasingly aggressive behaviors, refusing to participate in therapy, skipping skills, her grades were again deteriorating, and she was exhibiting significantly worsening behavioral and emotional problems, including, but not necessarily limited to, urinating on herself, hiding cups of feces and urine in her room, and hiding used feminine products in drawers rolled in sweatshirts, which were signs that A.S. was deteriorating, was at a heightened risk of harm, and needed to be immediately assessed for an increased level of services and supervision in order to prevent harm to herself or others.

58. Despite this knowledge, PSF, FPS, and BROWN failed to take action to ensure A.S. was Baker Acted, failed to refer A.S. for an updated CBHA to re-assess her behavioral and mental health needs, failed to ensure A.S. received services to meet her serious mental health and behavioral needs, and failed to refer A.S. for a Suitability Assessment by a qualified evaluator to determine if she met the criteria for placement in a residential treatment program.

59. On or about April 9, 2015, more than seven (7) months after she was placed in the custody of the state, PSF, FPS and BROWN had knowledge that A.S. ran away from her therapeutic foster mother at soccer practice which was her sixth runaway episode since being placed in foster care.

60. On or about April 10, 2015, PSF, FPS, and BROWN had knowledge that when A.S. was recovered from runaway status and returned to her therapeutic foster home, she threatened to commit suicide and was Baker Acted for the first time since being in foster care and the seventh time in less than a year.

61. PSF, FPS, and BROWN knew or should have known that during A.S.'s Baker Act, A.S. tested positive for THC and amphetamines, but they failed to staff A.S.'s case to determine the need for further services and/or change in placement, failed to refer A.S. for a substance abuse evaluation, failed to refer A.S. for a mental health evaluation, failed to refer A.S. for a behavioral review or a comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and failed to refer A.S. for a Suitability Assessment to determine if she met the criteria for placement in a residential treatment program.

62. On or about April 13, 2015, upon being released from her first Baker Act while in foster care, PSF, FPS, and BROWN authorized A.S. to return to her therapeutic foster home despite knowledge that she needed placement in a residential treatment facility, and a higher level of care, services, and supervision to address her serious mental health and behavioral needs.

63. On or about April 17, 2015, PFS, FPS and BROWN had knowledge that A.S.'s therapeutic foster parent found concerning and unusual items in A.S.'s room which were signs of a serious emotional and mental health disturbance, including a cup full of feces in the cabinet, used feminine products in her drawers, dirty undergarments, and sheets and mattress which smelled heavily like urine, and that the foster parent also reported A.S. making suicidal statements and alleging foster parent abuse which resulted in abuse investigations.

64. PSF, FPS, and BROWN had knowledge that these behaviors and symptoms were long standing issues that had occurred prior to A.S. being placed in state custody, but were escalating signs of a serious emotional disturbance and her deterioration, and that A.S. required immediate screening, assessment and referral for increased services and supports based upon professional judgment, including but not necessarily limited to an updated CBHA to re-assess

A.S.'s behavioral needs and a Suitability Assessment for placement in a residential treatment facility, but failed to ensure A.S. received the assessment, services, and placement she needed to meet her serious mental health and emotional needs and to ensure her safety.

65. On or about April 17, 2015, PSF, FPS, and BROWN had knowledge that A.S. was Baker Acted again due to threatening to kill herself which was her second Baker Act in a week, her second Baker Act since being placed in foster care, and her eighth Baker Act in less than a year.

66. PSF, FPS, and BROWN knew or should have known that during this Baker Act, A.S. refused to provide a urine sample to test for drugs, confirmed feeling suicidal on and off for the previous twelve years but stated it had worsened lately, reported multiple suicidal gestures in the past including holding her breath under water in the pool until she drowned, cutting her wrists, and overdosing on medication she got at a party, and that suicide appeared feasible and posed a significant risk to A.S.

67. On or about April 22, 2015, PSF, FPS, and BROWN had knowledge that A.S. was released from Baker Act and authorized her to be returned to her therapeutic foster home which was unable to meet her serious emotional, behavioral and mental health needs and need for safety.

68. Despite knowledge of A.S.'s repeated Baker Acts and deteriorating mental health and behaviors, PSF, FPS, and BROWN failed to increase the level of support and supervision for A.S., failed to create and maintain an appropriate safety plan for A.S., failed refer A.S. for a CBHA to re-assess her behavioral needs, failed to convene a staffing to address ongoing service intervention, safety and risk factors, and a safe placement for A.S., failed to make referrals for needed services for A.S., failed to refer A.S. for a Suitability Assessment for placement in a

residential treatment facility, and failed to take action to meet the therapeutic needs of A.S. through enhanced clinical assessment and treatment services based upon professional judgment.

69. On or about April 22, 2015, PSF, FPS and BROWN had knowledge that A.S. again ran away from her therapeutic foster home which was her seventh runaway since being placed in foster care.

70. Despite knowledge that A.S. had again run away, PSF, FPS, and BROWN failed to staff A.S.'s case to determine the need for further services and/or change in placement, failed to refer A.S. for a substance abuse evaluation, failed to refer A.S. for a mental health evaluation, failed to refer A.S. for a behavioral review or a comprehensive behavioral assessment by a Certified Behavior Analyst or Certified Associate Behavioral Analyst to develop an individualized plan for the prevention of continued runaway behavior, and failed to refer A.S. for a Suitability Assessment to determine if she met the criteria for placement in a residential treatment program.

71. On or about April 22, 2015, PSF, FPS and BROWN had knowledge that upon being recovered from runaway status by the police, A.S. again expressed suicidal ideations and was again Baker Acted for the third time in less than two weeks, the third time since being placed in foster care, and the ninth time in less than a year.

72. On or about April 25, 2015, PSF, FPS, and BROWN knew or should have known that when A.S. was being released from Baker Act, she ran away from the Baker Act facility, which was her eighth runaway since being placed in foster care, and when she was found by law enforcement she was sitting in the middle of the road stating she wanted to get hit by a car and die.

73. PSF, FPS, and BROWN had knowledge that as a result of her suicidal ideation and attempt, A.S. was Baker Acted for the fourth time since being placed in foster care, the fourth time in two weeks and the tenth time in less than a year.

74. Despite being aware that A.S. was exhibiting severe and escalating behaviors, including but not necessarily limited to repeated Baker Acts, acute suicidal ideations and attempts, hoarding belongings/food, wetting her bed, storing feces and used feminine products in her room, and writing papers talking about suicide, that her condition was rapidly deteriorating, and that her mental health, behavioral and emotional needs were increasingly urgent, PSF, FPS, and BROWN failed to increase the level of support and supervision for A.S., failed to convene a staffing to address identified safety and risk factors, failed to make immediate referrals for needed mental services and secure placement, failed to refer A.S. for an updated CBHA to address services and placement, failed to refer A.S. for a Suitability Assessment for residential treatment, and failed to take action to meet the therapeutic needs of A.S. through enhanced clinical assessment and treatment services based upon professional judgment.

75. On or about April 26, 2015, when A.S. was discharged from her Baker Act, rather than immediately referring A.S. for a higher level of services and placement to protect her safety and well-being, PSF, FPS and BROWN authorized A.S. to be placed back at her therapeutic foster home, an unsecure and unsafe placement unable to meet her serious emotional, behavioral and mental health needs.

76. Upon returning to the foster home on April 26, 2015, PSF, FPS, and BROWN had knowledge that A.S. exhibited belligerent behaviors and suicidal ideations, ran away for the ninth time since being placed in foster care, was hysterical with behavior that varied between manic episodes and crying spells, and as a result, A.S. was Baker Acted for the fifth time in just over two weeks, the fifth time since being placed in foster care, and the eleventh time in less than a year.

77. On or about April 29, 2015, upon being released from the Baker Act, despite knowledge that A.S. was mentally unstable, suicidal, and substantially certain to run away and

endanger herself, PSF, FPS, and BROWN authorized placement of A.S. at the emergency shelter she had previously run away from multiple times because there were no other placements available for A.S.

78. PSF, FPS, and BROWN failed to increase the level of support and supervision for A.S., failed to convene a staffing to address identified safety and risk factors, failed to make immediate referrals for needed mental services and secure placement, failed to refer A.S. for an updated CBHA to address services and placement, failed to refer A.S. for a Suitability Assessment for residential treatment, and failed to take action to meet the therapeutic needs of A.S. through enhanced clinical assessment and treatment services based upon professional judgment.

79. On or about April 30, 2015, PSF, FPS, and BROWN had knowledge that A.S. ran away from the emergency shelter which was her tenth run away since being placed in foster care.

80. On or about May 1, 2015, PSF, FPS, and BROWN had knowledge that while on runaway status, A.S. approached a police officer and stated she had met up with unidentified individuals who purchased cigarettes and alcohol for her, stated she had gone to a hotel with these individuals, stated she drank beer and liquor to the point of intoxication, and stated that she wanted to give up, lay in traffic, and be killed.

81. On or about May 1, 2015, as a result of A.S.'s continued suicidal ideations and attempts, PSF, FPS, and BROWN had knowledge that A.S. was Baker Acted for the sixth time in three weeks, the sixth time since being placed in foster care, and the twelfth time in less than a year.

82. PSF, FPS, and BROWN failed to increase the level of support and supervision for A.S., failed to convene a staffing to address identified safety and risk factors, failed to make immediate referrals for needed mental services and secure placement, failed to refer A.S. for an

updated CBHA to address services and placement, failed to refer A.S. for a Suitability Assessment for residential treatment, and failed to take action to meet the therapeutic needs of A.S. through enhanced clinical assessment and treatment services based upon professional judgment.

83. On or about May 5, 2015, upon being released from her sixth Baker Act in less than a month, despite knowledge that A.S. had run away numerous times, had stated she was going to continue running away, had made numerous suicidal ideations and attempts, was no longer attending school, and her mental health had significantly deteriorated while in foster care, rather than ensuring A.S. was placed in a secure setting where her safety could be ensured and where her serious emotional, behavioral, and mental health needs could be met, FPS and BROWN brought A.S. back to the PSF/FPS unsecure office while they searched for placement for her.

84. On or about May 5, 2015, PSF, FPS and BROWN had knowledge that A.S. was planning to run away from the PSF/FPS office, but failed to take any action whatsoever to ensure her safety or prevent her from running away and endangering herself.

85. On or about May 5, 2015, after specifically being on notice that A.S. was going to run away, PSF, FPS, and BROWN had knowledge that A.S. ran away from the PSF/FPS office which was her eleventh run away since being placed in foster care.

86. On or about May 6, 2015, upon being recovered from runaway status for the eleventh time, despite knowledge that A.S. had run away numerous times, had stated she was going to continue running away, was sexually victimized while on her most recent runaway, had made numerous suicidal ideations and attempts resulting in multiple recent Baker Acts, and her mental health had significantly deteriorated while in foster care, rather than ensuring A.S. was placed in a secure setting where her safety could be ensured and where her serious emotional, behavioral, and mental health needs could be met, PSF, FPS, and BROWN authorized placement of A.S. in a

therapeutic foster home which was unable to meet her serious mental health, behavioral, and emotional needs.

87. On or about May 7, 2015, after nine months in foster care, six Baker Acts since being in foster care, and eleven runaway episodes since being in foster care, PSF and FPS finally referred A.S. for a Suitability Assessment for placement in a residential treatment facility.

88. On or about May 11, 2015, PSF, FPS, and BROWN had knowledge that A.S. continued to threaten to run away, and that A.S. disclosed that she had been raped while on runaway, that she had been using drugs, that the foster parent she was placed with had previously cared for A.S. and reported that A.S. was not the same child she had before because A.S. was now completely detached and irrational, that A.S. made it very clear she did not care about anything including herself, that A.S. was not expected to stay put anywhere she was placed, and that A.S. was expected to run away or be placed under a Baker Act again.

89. PSF, FPS, and BROWN failed to take any action to ensure A.S.'s immediate mental health needs were met and that she was kept safe from harm.

90. On or about May 12, 2015, A.S. finally underwent an immediate Initial Suitability Assessment for placement in a residential treatment program which put PSF, FPS, and BROWN on notice that A.S.'s behaviors of storing urine, feces and used tampons were extremely troubling and generally only noticed in individuals with a severe emotional and mental health disturbance, that A.S. was clearly unstable and troubled as evidenced by her repeated Baker Acts, that A.S. met the criteria for placement in a secure residential treatment program, and that no setting less restrictive than that available through a secure, residential mental health program was capable of meeting A.S.'s need for structure, supervision and stability while she received the mental health treatment she clearly required.

91. On or about May 13, 2015, despite PSF, FPS, and BROWN's knowledge of A.S.'s deteriorating mental, emotional, and behavioral health and her urgent need for placement in a secure residential treatment program as recommended by professional judgment, Defendants authorized for A.S. to be dropped off at their office yet again while they looked for alternative placement for her with knowledge that the office was an unsecure location where she could not be kept safe and from where she had run away a week prior.

92. On or about May 13, 2015, while A.S. was at the PSF/FPS office, PSF, FPS, and BROWN had knowledge that A.S. needed to be supervised at all times, A.S. reported she planned on running away, and Defendants observed A.S. engaging in primping behaviors which they acknowledged A.S. was known to do before she ran away, but they failed to take any action to prevent A.S. from running away and instead left her completely unsupervised in the lobby despite the known risks she would be exposed to if she ran away.

93. On or about May 13, 2015, PSF, FPS, and BROWN had knowledge that A.S. said she was leaving the building to go to the store and ran away from the PSF/FPS office for the second time in a week which was her twelfth run away since being placed in foster care.

94. Despite PSF, FPS, and BROWN's knowledge that A.S. had run away from the PSF/FPS office and that A.S. was known to walk long distances while on runaway, upon information and belief, PSF, FPS, and BROWN failed to contact the Florida Abuse Hotline to file a Request to Locate A.S., failed to complete and submit an Incident Report within 24 hours of becoming aware that A.S. was missing; and failed to make diligent efforts to attempt to locate A.S., or actively continue to search for A.S. and document all efforts to locate A.S.

95. Between August 15, 2014 and May 13, 2015, PSF, FPS, and BROWN failed to ensure A.S. received proper assessment, counseling, treatment, targeted case management, and placement in a secure residential placement in accordance with professional judgment.

96. Between August 15, 2014 and May 13, 2015, PSF, FPS, and BROWN had knowledge of A.S.'s serious medical, mental health, and behavioral needs, but failed to provide A.S. with the services she required in accordance with professional judgment, causing her mental health to significantly deteriorate and causing her to suffer further emotional, psychological, and permanent harm.

97. On or about May 14, 2015, law enforcement in Marion County, Florida found A.S.'s body in a dry area of the river in of the Ocala national forest approximately forty miles away from the PSF/FPS office.

98. Upon information and belief, A.S. had committed suicide after running away from the PSF/FPS office by jumping off of a bridge and falling 90 feet vertically, landing feet first, causing extensive damage to A.S.'s legs and the lower portion of her body.

**COUNT I - WRONGFUL DEATH CLAIM AGAINST
PARTNERSHIP FOR STRONG FAMILIES, INC.**

99. Plaintiff, as the duly appointed Personal Representative of the Estate of A.S. also brings this action against Defendant PSF pursuant to §768.16, et. seq., Florida Statutes ("The Florida Wrongful Death Act"), on behalf of the deceased minor child's estate and the deceased minor child's beneficiaries, K.K. and T.S., who are deceased child's adoptive mother and father, as said action arises from the same operative facts as Plaintiff's 42 U.S.C. §1983 claim pursuant to 28 U.S.C. §1367(a).

100. Plaintiff hereby reavers and realleges paragraphs 1 through 98 as if set forth fully herein.

101. At all times material, the deceased child was 15 and 16 years of age.

102. The Court has jurisdiction over this claim.

103. This claim arises in negligence under Florida law, relating to actions taken by Defendants in Alachua County, Columbia County, Levy County, Madison County, and Gilchrist County, Florida, culminating in A.S. jumping off a bridge in Marion County, Florida on or about May 14, 2015, which resulted in her death.

104. While A.S. was residing in foster care throughout the state of Florida, PSF failed to assess A.S.'s serious emotional, behavioral, and mental health needs, failed to provide A.S. with a safe placement that could meet her serious emotional, behavioral and mental health needs and keep her safe, failed to adequately supervise A.S., and allowed A.S. to elope and run away from her foster care placements and PSF's office multiple times, ultimately resulting in A.S.'s death on or about May 14, 2015.

105. At all times relevant hereto, BROWN was an employee and/or agent of PSF, acting within the course and scope of her employment with PSF.

106. Pursuant to Section 768.28, Florida Statutes, Plaintiff has notified PSF of this claim and all conditions precedent have been performed.

107. At all times material hereto, PSF, as the lead community based agency contracted to provide child welfare services in Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Madison, Suwannee, Taylor and Union Counties, had the following duties:

- a. To provide a safe, secure environment where A.S. was free from unreasonable risk of harm;
- b. To use reasonable care in the oversight and supervision of A.S.;

- c. To provide ongoing oversight and coordination of services to address behavioral, emotional, and psychiatric needs of children under its care and supervision, including A.S.
- d. To continually monitor the performance of subcontracted agencies, including FPS, to ensure they were meeting children's needs for safety and services;
- e. To have available an appropriate continuum of placements and services to address A.S.'s mental health, behavioral health, and substance abuse needs;
- f. To ensure that Family Care Counselors, case managers and/or caseworkers made all necessary and appropriate referrals for evaluations and services;
- g. To ensure all necessary and appropriate evaluations and assessments for A.S. were completed in a timely manner when necessary, including but not limited to, Comprehensive Behavioral Health Assessments, Suitability Assessments, mental health assessments, psychiatric assessments, and substance abuse assessments;
- h. To ensure that all recommendations from assessors, evaluators, and other professionals regarding A.S. were followed and implemented in a timely manner;
- i. To ensure that A.S. was Baker Acted when her behavior was a threat to herself, a threat to others, and she met criteria pursuant to Chapter 394, Florida Statutes;
- j. To comply with Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, and PSF Operating Procedures regarding the safety of A.S. and her need for mental health, psychiatric, and substance abuse services;
- k. To ensure that safety plans or plans of care were implemented to ensure A.S. was safe and appropriately cared for; and
- l. To implement reasonable safeguards to prevent children in the custody of the State of Florida, including A.S., from eloping and running away, to immediately report all children known to be missing, including A.S., to law enforcement, the Court, and the Department, among others, and to take all reasonable and necessary steps and action to take such children back into physical custody, place them in a safe, secure placement, and prevent further runaway behavior;

108. PSF, through its agents and/or employees, breached said non-discretionary and non-delegable duties.

109. As a direct and proximate result of the aforementioned breach, A.S. was killed while in the care and custody of PSF, and suffered severe bodily harm and resulting pain and suffering, mental anguish and psychological trauma, pre-death pain and suffering, deterioration, discomfort, death, loss of capacity for the enjoyment of life, lost future earning capacity, and medical and funeral and other reasonably foreseeable compensatory damages. These losses are either permanent or continuing in nature and A.S.'s Estate will continue to suffer such losses in the future.

110. A.S.'s death was directly and proximately caused or contributed to by the negligence of PSF, and its employees and/or agents including, but not necessarily limited to BROWN.

111. As a further direct and proximate result of the aforesaid negligence of Defendant PSF and its employees and/or agents, including, but not necessarily limited to BROWN, A.S.'s adoptive parents, K.K. and T.S., individually, have sustained the following damages:

- a. They have incurred significant physical and mental pain, anguish, distress and suffering since the date of their daughter's death, and will continue to experience great physical and mental pain, anguish, distress and suffering the future;
- b. They have lost their daughter's companionship, comfort, society, services and filial consortium.

112. As a further direct and proximate result of the aforesaid negligence of PSF and its employees and/or agents including, but not necessarily limited to BROWN, A.S.'s Estate has:

- a. Lost the value of her earnings, with interest thereon;

- b. Lost the value of her net accumulations, beyond death, reduced to present money value;
- c. Incurred medical and funeral expenses.

WHEREFORE, Plaintiff demands judgment against PSF for all recoverable damages, and for all such other lawful damages and relief as the Court may deem appropriate and proper.

**COUNT II – 42 U.S.C. § 1983 CLAIM AGAINST
DEFENDANT PARTNERSHIP FOR STRONG FAMILIES, INC.**

113. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

114. Plaintiff reavers and realleges paragraphs 1 through 98 above as if fully set forth herein.

115. At all times material hereto, PSF was a “person” and was acting under the color of state law within the meaning of 42 U.S.C. § 1983.

116. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.993(1)(a), Florida Statutes, foster care is a public function traditionally within the exclusive prerogative of the State of Florida.

117. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system, including A.S., had the constitutionally protected right to be safe and free from unreasonable risk of harm.

118. PSF established and enforced a custom, policy, or practice that failed to require appropriate placements for foster children in accordance with professional judgment.

119. PSF established and enforced a custom, policy, or practice that failed to ensure that mental health, substance abuse, and behavioral needs of foster children in state custody were assessed, evaluated, and treated in accordance with professional judgment.

120. PSF established and enforced a custom, policy, or practice on a widespread basis that failed to require recommendations from psychological evaluations, psychiatric evaluations, mental health evaluations, and Suitability Assessments, to be followed in accordance with professional judgment, thereby exposing children in its care to the substantial risk of serious harm.

121. PSF established and enforced a custom, policy, or practice that failed to require foster children's mental health needs to be met.

122. PSF established and enforced a custom, policy, or practice which did not have adequate foster care placements to meet the placement needs of foster children in Alachua County.

123. PSF established and enforced a custom, policy, or practice of allowing foster children with known mental, behavioral, emotional, and substance abuse problems to be placed in dangerous group homes, emergency shelter placements, and foster homes from where they could, and did, run away, notwithstanding that it was exposing such children to the dangers of death by suicide and the substantial risk of serious harm on the streets including criminal acts, drug use, engaging in prostitution, becoming victims of human trafficking, and even the risk of death.

124. PSF established and enforced a custom, policy, or practice of failing to appropriately staff cases and assess children who were recovered from runaway to ensure appropriate services, placement, and a plan of care to prevent further runaway episodes.

125. PSF established and enforced a custom, policy, or practice of failing to appropriately monitor its subcontracted providers and of deliberately failing to learn of dangers that children in its custody were exposed to.

126. PSF was responsible, but failed to ensure that children under its care, including A.S., had a complete and accurate plan of care that addressed their needs consistent with their mental health evaluations and their level of care and failed to continually assess and determine any need for service referrals in accordance with professional judgment.

127. PSF maintained ultimate responsibility to ensure that children in its care received adequate care and protection from harm and was required to, but failed, to implement policies and procedures to verify the accuracy or ensure the completeness of information provided by case management agencies concerning the welfare of foster children, including A.S.

128. At all times material hereto, PSF did not provide services or placements to A.S., who was in the physical and legal custody of PSF and the Department, in accordance with professional judgment, and was deliberately indifferent and/or acted with reckless disregard to A.S.'s health, safety, and welfare and Constitutional and federal rights, including, without limitation, by failing to ensure A.S. received a timely Suitability Assessment as necessary and recommended, failing to ensure that A.S. received a substance abuse assessment and treatment as necessary, failing to ensure that A.S. was placed in a safe environment that could meet her needs, failing to ensure A.S. was given proper assessments and services to prevent her from running away, failing to ensure A.S. was placed in a secure residential treatment facility when recommended, failing to have appropriate and available placements for foster children in Alachua County, failing to monitor its subcontractors to ensure child safety, and by directly causing A.S.'s mental health condition to deteriorate and exposing A.S. to unnecessary risk of harm and death.

129. PSF established and maintained an unconstitutional system of care that resulted in the widespread harm to foster children, including A.S., because it abdicated its constitutional and statutory duties to ensure that each child in its care was free from harm by delegating all case

management responsibility to its subcontractors with no direct supervision or any other case involvement that would be necessary to meeting its constitutional and statutory duties, resulting in a child welfare system that permitted case managers to operate unchecked, unsupervised, and blatantly ignore and/or deliberately fail to learn of the plethora of red flags, dangers and warning signs that A.S.'s needs were not being properly assessed and provided for. In this regard, PSF violated A.S.'s Constitutional rights in that:

- a. PSF accepted responsibility for the care of A.S. knowing that A.S. was in immediate need of secure residential psychiatric services, but failed to refer her for immediate secure residential psychiatric services and instead repeatedly authorized placement in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.
- b. PSF accepted responsibility for the custody and care of A.S. knowing that A.S. was at high risk for danger, elopement and running away, had run away multiple times previously, and that she intended to run away from various placements, yet PSF repeatedly authorized placement of A.S. in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.
- c. PSF accepted responsibility for the care of A.S. without otherwise ever independently assessing her needs and confirming that her needs were being met, before or after assigning the case to its subcontracted case management agency.

- d. PSF then assigned A.S.'s case to a case management agency knowing that A.S. was in immediate need of therapeutic, behavioral, mental health, psychiatric, psychological, emotional, substance abuse, and residential services but failing to ensure that she was assessed and referred for these immediate services.

130. PSF violated its duties to oversee case management agencies by making deliberate choices from among various alternatives that created known risks that foster children under its care would not receive adequate care and protection from harm, and these policies were a substantial factor in the violation of A.S.'s rights, by establishing and maintaining a system of care involving use of subcontracting to other agencies, multiple dangerous placements, lack of monitoring and confirming that the needs of each child were met, including A.S., and thus engaging in a deliberate failure to learn of the children's conditions and deliberate failure to determine and verify that their needs were being met and their constitutionally-protected rights upheld by the subcontracted agencies.

131. PSF was deliberately indifferent to the serious psychiatric and psychological needs of children in its care and custody.

132. At all times that PSF was taking the actions described herein, it was clearly established that children in the physical custody of the state foster care system, like A.S., have the Constitutionally and federally protected right to receive mental health services in accordance with professional judgment and not be exposed to deterioration of mental health and emotional harm.

133. Despite possessing the authority and means to remedy the unconstitutional treatment of the child and seek safe and secure therapeutic residential placement and services to address A.S.'s serious mental health needs, PSF was deliberately indifferent to A.S.'s right to receive treatment for her serious mental health needs by failing to timely assess her emotional,

behavioral, mental health, and substance abuse needs, failing to timely address A.S.'s emotional, behavioral, mental health, and substance abuse needs, and failing to ensure A.S. received safe, stable, therapeutic residential placement, which subjected A.S. to further psychological harm and deterioration.

134. Despite possessing the authority and means to remedy the unconstitutional treatment of A.S., PSF was deliberately indifferent to A.S.'s medical, mental health, behavioral, psychological, emotional, and substance abuse need and the substantial risk that A.S.'s condition would continue to deteriorate and PSF knowingly and recklessly disregarded an excessive risk to her health and safety.

135. At all times material hereto, PSF had knowledge of the dangers and risks of harm to foster children and children in state care, and to A.S. in particular, when on runaway status and/or away from their placement without authorization, including, but not necessarily limited to, physical and sexual assault, rape, pregnancy, sexually transmitted diseases, drug and alcohol use, homelessness, prostitution, abduction and kidnaping, domestic violence, human trafficking, murder, suicide, and death (said dangers having been extensively studied, reported upon, and are well known to child welfare professionals throughout the State of Florida and nationwide). Despite this knowledge, in violation of multiple Florida Statutes, Florida Administrative Code rules, and PSF Operating Procedures, PSF failed to ensure A.S. was placed in a safe placement or a secure facility, failed to ensure A.S. was placed in a safe placement or a secure facility when she returned from runaway, failed to prevent A.S. from eloping and running away, and failed to properly handle a runaway child or a child in danger and at risk of eloping. Rather, PSF perceived and treated A.S. as a "throwaway child" and actually encouraged, assisted, and/or allowed A.S. to elope and run away, despite the known dangers and risk to A.S.

136. At all times material hereto, PSF had knowledge that A.S. was likely to elope and run away, and deliberately and/or recklessly failed to take any action to prevent said elopement and runaway episodes and her subsequent injuries.

137. PSF took said actions described herein knowing it was exposing children who were in State custody, including A.S., to a substantial risk of serious harm.

138. At all times material hereto, PSF was deliberately indifferent to the safety and welfare of A.S. and knew that A.S. was exposed to a substantial risk of serious harm.

139. PSF violated A.S.'s fundamental right of physical safety subjecting her to a heightened risk of danger and ultimately causing her death.

140. PSF's actions and failures to act were done with knowledge that said actions would deprive A.S. of her constitutional rights to be free from harm.

141. Despite possession the authority and means to remedy the unconstitutional treatment of A.S. and to seek and secure treatment and a safe, stable, and secure placement to address A.S.'s serious mental health needs, PSF was deliberately indifferent to the substantial risk that A.S.'s condition would continue to deteriorate and knowingly and recklessly disregarded an excessive risk to her health and safety.

142. As a direct and proximate result of PSF's deliberate indifference and/or recklessness, A.S. suffered serious physical injury and trauma, psychological trauma, pain and suffering, deterioration, discomfort, loss of capacity for the enjoyment of life, pre-death pain and suffering, loss of future earning capacity, loss of the value of her earnings with interest thereon, loss of the value of her net accumulations beyond death reduced to present money value, medical and funeral expenses, and other reasonably foreseeable compensatory damages.

143. As a further direct and proximate result of PSF's deliberate indifference, A.S.'s adoptive parents, K.K. and T.S., have sustained the following damages:

- a. They have incurred significant physical and mental pain, anguish, distress and suffering since the date of their daughter's death, and will continue to experience great physical and mental pain, anguish, distress, and suffering in the future;
- b. They have lost their daughter's companionship, comfort, society, services, and filial consortium.

144. Plaintiff and A.S.'s Estate are obligated to the undersigned firms for payment of attorney's fees and costs, and seeks recovery of reasonable attorney's fees and costs pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, the Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against Defendant PSF for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

COUNT III – WRONGFUL DEATH CLAIM AGAINST FAMILY PRESERVATION SERVICES OF FLORIDA, INC. FAMILY PRESERVATION SERVICES OF FLORIDA, INC. D/B/A PROVIDENCE HUMAN SERVICES OF FLORIDA, FAMILY PRESERVATION SERVICES OF FLORIDA, INC. D/B/A PATHWAYS HUMAN SERVICES OF FLORIDA, PATHWAYS HEALTH AND COMMUNITY SERVICES OF FLORIDA, INC. D/B/A PATHWAYS HUMAN SERVICES OF FLORIDA, MOLINA HEALTHCARE, INC., AND MOLINA HEALTHCARE OF FLORIDA, INC. COLLECTIVELY REFERRED TO AS "FPS"

145. Plaintiff, as the duly appointed Personal Representative of the Estate of A.S. also brings this action against Defendant FPS pursuant to §768.16, et. seq., Florida Statutes ("The Florida Wrongful Death Act"), on behalf of the deceased minor child's estate and the deceased minor child's beneficiaries, K.K. and T.S., who are deceased child's adoptive mother and father,

as said action arises from the same operative facts as Plaintiff's 42 U.S.C. §1983 claim pursuant to 28 U.S.C. §1367(a).

146. Plaintiff hereby reavers and realleges paragraphs 1 through 98 as if set forth fully herein.

147. At all times material, the deceased child was 15 and 16 years of age.

148. The Court has jurisdiction over this claim.

149. This claim arises in negligence under Florida law, relating to actions taken by Defendants in Alachua County, Columbia County, Levy County, Madison County, and Gilchrist County, Florida, culminating in A.S. jumping off a bridge in Marion County, Florida on or about May 14, 2015, which resulted in her death.

150. While A.S. was residing in foster care throughout the state of Florida, FPS failed to assess A.S.'s serious emotional, behavioral, and mental health needs, failed to provide A.S. with a safe placement that could meet her serious emotional, behavioral and mental health needs and keep her safe, failed to adequately supervise A.S., and allowed A.S. to elope and run away from her foster care placements and FPS's office multiple times, ultimately resulting in A.S.'s death on or about May 14, 2015.

151. At all times relevant hereto, BROWN was an employee of FPS, acting within the course and scope of her employment with FPS.

152. Pursuant to Section 768.28, Florida Statutes, Plaintiff has notified FPS of this claim and all conditions precedent have been performed.

153. At all times material hereto, FPS, as the community based agency contracted to provide case management services to foster children in Alachua County, had the following duties:

- a. To provide a safe, secure environment where A.S. was free from unreasonable risk of harm;

- b. To use reasonable care in the oversight and supervision of A.S.;
- c. To provide ongoing oversight and coordination of services to address behavioral, emotional, and psychiatric needs of children under its care and supervision, including A.S.
- d. To have available an appropriate continuum of placements and services to address A.S.'s mental health, behavioral health, and substance abuse needs;
- e. To ensure that Family Care Counselors, case managers and/or caseworkers made all necessary and appropriate referrals for evaluations and services;
- f. To ensure all necessary and appropriate evaluations and assessments for A.S. were completed in a timely manner when necessary, including but not limited to, Comprehensive Behavioral Health Assessments, Suitability Assessments, mental health assessments, psychiatric assessments, and substance abuse assessments;
- g. To ensure that all recommendations from assessors, evaluators, and other professionals regarding A.S. were followed and implemented in a timely manner;
- h. To ensure that A.S. was Baker Acted when her behavior was a threat to herself, a threat to others, and she met criteria pursuant to Chapter 394, Florida Statutes;
- i. To comply with Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, PSF Operating Procedures, and FPS Operating Procedures regarding the safety of A.S. and her need for mental health, psychiatric, and substance abuse services;
- j. To ensure that safety plans or plans of care were implemented to ensure A.S. was safe and appropriately cared for; and
- k. To implement reasonable safeguards to prevent children in the custody of the State of Florida, including A.S., from eloping and running away, to immediately report all children known to be missing, including A.S., to law enforcement, the Court, PSF, and the Department, among others, and to take all reasonable and necessary steps and action to take such children back into physical custody, place them in a safe, secure placement, and prevent further runaway behavior.

154. FPS, through its agents and/or employees, breached said non-discretionary and non-delegable duties.

155. As a direct and proximate result of the aforementioned breach, A.S. was killed while in the care and custody of FPS, and suffered severe bodily harm and resulting pain and suffering, mental anguish and psychological trauma, pre-death pain and suffering, deterioration, discomfort, death, loss of capacity for the enjoyment of life, lost future earning capacity, and medical and funeral and other reasonably foreseeable compensatory damages. These losses are either permanent or continuing in nature and A.S.'s Estate will continue to suffer such losses in the future.

156. A.S.'s death was directly and proximately caused or contributed to by the negligence of FPS, and its employees, including, but not necessarily limited to BROWN.

157. As a further direct and proximate result of the aforesaid negligence of FPS and its employees, including, but not necessarily limited to BROWN, A.S.'s adoptive parents, K.K. and T.S., have sustained the following damages:

- a. They have incurred significant physical and mental pain, anguish, distress and suffering since the date of their daughter's death, and will continue to experience great physical and mental pain, anguish, distress and suffering the future;
- b. They have lost their daughter's companionship, comfort, society, services and filial consortium.

158. As a further direct and proximate result of the aforesaid negligence of FPS and its employees, including, but not necessarily limited to BROWN, A.S.'s Estate has:

- a. Lost the value of her earnings, with interest thereon;
- b. Lost the value of her net accumulations, beyond death, reduced to present money value;

c. Incurred medical and funeral expenses.

WHEREFORE, Plaintiff demands judgment against FPS for all recoverable damages, and for all such other lawful damages and relief as the Court may deem appropriate and proper.

**COUNT IV – 42 U.S.C. § 1983 CLAIM AGAINST
FAMILY PRESERVATION SERVICES OF FLORIDA, INC. FAMILY
PRESERVATION SERVICES OF FLORIDA, INC. D/B/A PROVIDENCE HUMAN
SERVICES OF FLORIDA, FAMILY PRESERVATION SERVICES OF FLORIDA, INC.
D/B/A PATHWAYS HUMAN SERVICES OF FLORIDA, PATHWAYS HEALTH AND
COMMUNITY SUPPORT OF FLORIDA, INC. D/B/A PATHWAYS HUMAN SERVICES
OF FLORIDA, MOLINA HEALTHCARE, INC., AND MOLINA HEALTHCARE OF
FLORIDA, INC. (COLLECTIVELY REFERRED TO AS “FPS”)**

159. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

160. Plaintiff repeats and realleges paragraphs 1 through 98 above as if fully set forth herein.

161. At all times material hereto, FPS was a “person” and was acting under the color of state law within the meaning of 42 U.S.C. § 1983.

162. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.993(1)(a), Florida Statutes, foster care is a public function traditionally within the exclusive prerogative of the State of Florida.

163. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system, including A.S., had the constitutionally protected right to be safe and free from unreasonable risk of harm.

164. FPS established and enforced a custom, policy, or practice that failed to require appropriate placements for foster children in accordance with professional judgment.

165. FPS established and enforced a custom, policy, or practice that failed to ensure that mental health, substance abuse, and behavioral needs of foster children in state custody were assessed, evaluated, and treated in accordance with professional judgment.

166. FPS established and enforced a custom, policy, or practice on a widespread basis that failed to require recommendations from psychological evaluations, psychiatric evaluations, mental health evaluations, and Suitability Assessments, to be followed in accordance with professional judgment, thereby exposing children in its care to the substantial risk of serious harm.

167. FPS established and enforced a custom, policy, or practice that failed to require foster children's mental health needs to be met.

168. FPS established and enforced a custom, policy, or practice which did not have adequate foster care placements to meet the placement needs of foster children in Alachua County.

169. FPS established and enforced a custom, policy, or practice of allowing foster children with known mental, behavioral, emotional, and substance abuse problems to be placed in dangerous group homes, emergency shelter placements, and foster homes from where they could, and did, run away, notwithstanding that it was exposing such children to the dangers of death by suicide and the substantial risk of serious harm on the streets including criminal acts, drug use, engaging in prostitution, becoming victims of human trafficking, and even the risk of death.

170. FPS established and enforced a custom, policy, or practice of failing to appropriately staff cases and assess children who were recovered from runaway to ensure appropriate services, placement, and a plan of care to prevent further runaway episodes.

171. FPS was responsible, but failed to ensure that children under its care, including A.S., had a complete and accurate plan of care that addressed their needs consistent with their

mental health evaluations and their level of care and failed to continually assess and determine any need for service referrals in accordance with professional judgment.

172. At all times material hereto, FPS did not provide services or placements to A.S., who was in the physical and legal custody of FPS and the Department, in accordance with professional judgment, and was deliberately indifferent and/or acted with reckless disregard to A.S.'s health, safety, and welfare and Constitutional and federal rights, including, without limitation, by failing to ensure A.S. received a timely Suitability Assessment as necessary and recommended, failing to ensure that A.S. received a substance abuse assessment and treatment as necessary, failing to ensure that A.S. was placed in a safe environment that could meet her needs, failing to ensure A.S. was given proper assessments and services to prevent her from running away, failing to ensure A.S. was placed in a secure residential treatment facility when recommended, failing to have appropriate and available placements for foster children in Alachua County, and by directly causing A.S.'s mental health condition to deteriorate and exposing A.S. to unnecessary risk of harm and death.

173. FPS violated A.S.'s Constitutional rights in that:

- a. FPS accepted responsibility for the care of A.S. knowing that A.S. was in immediate need of secure residential psychiatric services, but failed to refer her for immediate secure residential psychiatric services and instead repeatedly authorized placement in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.
- b. FPS accepted responsibility for the custody and care of A.S. knowing that A.S. was at high risk for danger, elopement and running away, had run away multiple

times previously, and that she intended to run away from various placements, yet PSF repeatedly authorized placement of A.S. in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.

- c. FPS accepted responsibility for the care of A.S. knowing that A.S. was in immediate need of therapeutic, behavioral, mental health, psychiatric, psychological, emotional, substance abuse, and residential services but failing to ensure that she was assessed and referred for these immediate services.

174. FPS was deliberately indifferent to the serious psychiatric and psychological needs of children in its care and custody.

175. At all times that FPS was taking the actions described herein, it was clearly established that children in the physical custody of the state foster care system, like A.S., have the Constitutionally and federally protected right to receive mental health services in accordance with professional judgment and not be exposed to deterioration of mental health and emotional harm.

176. Despite possessing the authority and means to remedy the unconstitutional treatment of the child and seek safe and secure therapeutic residential placement and services to address A.S.'s serious mental health needs, FPS was deliberately indifferent to A.S.'s right to receive treatment for her serious mental health needs by failing to timely assess her emotional, behavioral, mental health, and substance abuse needs, failing to timely address A.S.'s emotional, behavioral, mental health, and substance abuse needs, and failing to ensure A.S. received safe, stable, therapeutic residential placement, which subjected A.S. to further psychological harm and deterioration.

177. Despite possessing the authority and means to remedy the unconstitutional treatment of A.S., FPS was deliberately indifferent to A.S.'s medical, mental health, behavioral, psychological, emotional, and substance abuse need and the substantial risk that A.S.'s condition would continue to deteriorate and FPS knowingly and recklessly disregarded an excessive risk to her health and safety.

178. At all times material hereto, FPS had knowledge of the dangers and risks of harm to foster children and children in state care, and to A.S. in particular, when on runaway status and/or away from their placement without authorization, including, but not necessarily limited to, physical and sexual assault, rape, pregnancy, sexually transmitted diseases, drug and alcohol use, homelessness, prostitution, abduction and kidnaping, domestic violence, human trafficking, murder, suicide, and death (said dangers having been extensively studied, reported upon, and are well known to child welfare professionals throughout the State of Florida and nationwide). Despite this knowledge, in violation of multiple Florida Statutes, Florida Administrative Code rules, PSF Operating Procedures, and FPS Operating Procedures, FPS failed to ensure A.S. was placed in a safe placement or a secure facility, failed to ensure A.S. was placed in a safe placement or a secure facility when she returned from runaway, failed to prevent A.S. from eloping and running away, and failed to properly handle a runaway child or a child in danger and at risk of eloping. Rather, FPS perceived and treated A.S. as a "throwaway child" and actually encouraged, assisted, and/or allowed A.S. to elope and run away, despite the known dangers and risk to A.S.

179. At all times material hereto, FPS had knowledge that A.S. was likely to elope and run away, and deliberately and/or recklessly failed to take any action to prevent said elopement and runaway episodes and her subsequent injuries.

180. FPS took said actions described herein knowing it was exposing children who were in State custody, including A.S., to a substantial risk of serious harm.

181. At all times material hereto, FPS was deliberately indifferent to the safety and welfare of A.S. and knew that A.S. was exposed to a substantial risk of serious harm.

182. FPS violated A.S.'s fundamental right of physical safety subjecting her to a heightened risk of danger and ultimately causing her death.

183. FPS's actions and failures to act were done with knowledge that said actions would deprive A.S. of her constitutional rights to be free from harm.

184. Despite possession the authority and means to remedy the unconstitutional treatment of A.S. and to seek and secure treatment and a safe, stable, and secure placement to address A.S.'s serious mental health needs, FPS was deliberately indifferent to the substantial risk that A.S.'s condition would continue to deteriorate and knowingly and recklessly disregarded an excessive risk to her health and safety.

185. As a direct and proximate result of FPS's deliberate indifference and/or recklessness, A.S. suffered serious physical injury and trauma, psychological trauma, pain and suffering, deterioration, discomfort, loss of capacity for the enjoyment of life, pre-death pain and suffering, loss of future earning capacity, loss of the value of her earnings with interest thereon, loss of the value of her net accumulations beyond death reduced to present money value, medical and funeral expenses, and other reasonably foreseeable compensatory damages.

186. As a further direct and proximate result of FPS's deliberate indifference, A.S.'s adoptive parents, K.K. and T.S., have sustained the following damages:

- a. They have incurred significant physical and mental pain, anguish, distress and suffering since the date of their daughter's death, and will continue to

experience great physical and mental pain, anguish, distress, and suffering in the future;

- b. They have lost their daughter's companionship, comfort, society, services, and filial consortium.

187. Plaintiff and A.S.'s Estate are obligated to the undersigned firms for payment of attorney's fees and costs, and seeks recovery of reasonable attorney's fees and costs pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, the Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against FPS for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

COUNT V – 42 U.S.C. § 1983 CLAIM AGAINST
DEFENDANT CHERIESE BROWN

188. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

189. Plaintiff reavers and realleges paragraphs 1 through 4, and 20 through 98 as if set forth fully herein.

190. At all times material hereto, Defendant BROWN, as a case worker, case manager, and/or family care counselor performing foster care and related services, was acting under color of state law.

191. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.993(1)(a), Florida Statutes, foster care is public function traditionally within the exclusive prerogative of the State of Florida.

192. At all times material hereto, Defendant BROWN was deliberately indifferent to the safety and welfare of A.S. and knew that A.S. was exposed to a substantial risk of serious harm.

193. Defendant BROWN violated A.S.'s fundamental right of physical safety subjecting her to a heightened risk of danger and ultimately causing her death.

194. Defendant BROWN acted in total disregard of the constitutional rights of A.S.

195. Defendant BROWN's actions were with knowledge that said actions would deprive A.S. of her constitutional rights.

196. At all material times, it was clearly established that children in the physical custody of the state foster care system had the right to be safe and free from unreasonable risk of harm and death.

197. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system had the right to treatment for their serious mental health and medical needs.

198. Despite having the authority and means to seek and secure treatment and a safe, stable, secure therapeutic placement to address A.S.'s serious mental health needs, Defendant BROWN was deliberately indifferent to the substantial risk that A.S.'s condition would continue to deteriorate and knowingly and recklessly disregarded an excessive risk to her health and safety.

199. Defendant BROWN was deliberately indifferent to the serious mental health needs of A.S. by failing to assess A.S.'s emotional, behavioral and mental health needs and failing to address such needs with appropriate treatment and an appropriate placement which subjected A.S. to further psychological harm and deterioration.

200. Defendant BROWN demonstrated deliberate indifference to A.S.'s right to receive treatment for her serious mental health needs by failing to ensure A.S. received the necessary

treatment and a safe, stable, secure therapeutic placement that could address her serious mental health needs.

201. At all times material hereto, Defendant BROWN was deliberately indifferent to A.S.'s medical, mental health, behavioral, psychological and emotional needs.

202. As a direct and proximate result of Defendant BROWN's deliberate indifference, A.S. suffered psychological trauma, pain and suffering, discomfort, deterioration, loss of the ability to enjoy life, and suffered other reasonably foreseeable compensatory damages.

203. At all times material hereto, Defendant BROWN was aware that A.S. had significantly worsening mental health, behavioral and emotional needs, but took no action to obtain or provide appropriate mental health and behavioral treatment for A.S.'s serious needs based upon professional judgment.

204. At all times material hereto, Defendant BROWN was aware that A.S. had significantly worsening mental health, behavioral and emotional needs, but took no action to place A.S. in a safe, stable, secure and therapeutic placement that could meet her needs or otherwise keep A.S. safe and prevent her from harming herself.

205. At all times material hereto, Defendant BROWN was aware that A.S. was likely to elope and run away, but took no action to keep A.S. safe and prevent her from running away and harming herself and in fact actively encouraged, assisted and/or allowed her to do so.

206. At all times relevant hereto, Defendant BROWN was aware of the dangers and risks of harm to foster children and children in state care, and to A.S. in particular, when on runaway status and/or away from their placement without authorization, including but not limited to, physical and sexual assault, rape, pregnancy, drug and alcohol use, homelessness, prostitution, abduction and kidnapping, domestic violence, murder, suicide, and death (said dangers having

been extensively studies, reported upon, and well known to child welfare professionals throughout the State of Florida and nationwide), yet in violation of multiple Department operating procedures, Florida Statutes, Administrative Code Rules, PSF Operating Procedures, and FPS Operating Procedures, took no action to prevent A.S. from eloping and running away, to assess A.S.'s emotional, behavioral and mental health needs and return her to a safe placement, to properly handle a runaway child or a child in danger and at risk of eloping, to have a pickup order issued, or to otherwise diligently search for A.S.

207. Rather, Defendant BROWN treated A.S. as a "throwaway child" and actively encouraged, assisted and/or allowed A.S. to elope and run away, despite the well-known dangers and risks to A.S.

208. Defendant BROWN's actions and failures were done with knowledge that said actions would deprive A.S. of her constitutional rights to be free from harm.

209. At all times relevant hereto, it was clearly established that A.S. was in the physical and legal custody of the State of Florida, the Department, and PFS and had the constitutional right to be free from unreasonable risk of harm.

210. Despite possessing the authority and means to remedy the unconstitutional treatment of A.S., Defendant BROWN was deliberately indifferent to said treatment and knowingly and recklessly failed to take immediate action which would have ensured A.S.'s safety and prevented her injuries and death.

211. As a direct and proximate result of Defendant BROWN's deliberate indifference, A.S. suffered serious physical injury and trauma, psychological trauma, pain and suffering, deterioration, discomfort, loss of capacity for the enjoyment of life, pre-death pain and suffering, death, loss of future earning capacity, loss of the value of her earnings with interest thereon, loss

of the value of her net accumulations beyond death reduced to present money value, medical and funeral expenses, and other reasonably foreseeable compensatory damages.

212. Plaintiff and A.S.'s Estate are obligated to the undersigned firms for payment of attorney's fees and costs, and seek recovery of reasonable attorney's fees and costs pursuant to the provision of 42 U.S.C. §1988.

WHEREFORE, the Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against Defendant BROWN for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

**COUNT VI – NEGLIGENCE ACTION AGAINST
ALL DEFENDANTS FOR DAMAGES UNRELATED TO DEATH**

213. A.S., who died on or about May 14, 2015, after this cause of action arose in her favor, but prior to the filing of this Complaint, would have been the plaintiff in this action if she had lived and not died by committing suicide on that date.

214. The Court has jurisdiction over this claim.

215. This claim arises in negligence under Florida law, relating to actions taken by Defendants in Alachua, Columbia, Madison, Levy, and Gilchrist Counties, which resulted in injuries and damages to A.S. prior to her death in Marion County, Florida on or about May 14, 2015.

216. Plaintiff reavers and realleges paragraphs 1 through 98 as if set forth fully herein.

217. While A.S. was residing in foster care in Alachua, Madison, Gilchrist, Columbia, and Levy Counties, Defendants failed to provide A.S. with a safe and appropriate placement, and failed to take action to ensure that A.S. received appropriate assessment and treatment that was based upon professional judgment to address A.S.'s serious mental health, behavioral and emotional needs based.

218. As the result of Defendants' failures to take action, A.S.'s mental health, behavioral and emotional needs worsened, she deteriorated and decompensated, and she became increasingly suicidal.

219. Defendants failed to prevent A.S. from eloping and running away, despite the well-known dangers and risks to A.S. while on runaway status and/or away from her foster placement without authorization, and while on runaway A.S. was sexually assaulted, exposed to illegal substances and alcohol, and her mental health continued to deteriorate.

220. While A.S. was residing in foster care throughout the State of Florida, Defendants failed to provide her with a safe placement, failed to adequately supervise A.S., failed to ensure A.S. was properly assessed and treated for her serious emotional, behavioral, and mental health needs, failed to ensure A.S. was placed in a secure in-patient psychiatric facility when recommended, and allowed A.S. to elope and run away from her foster care placements and Defendants' offices.

221. At all times material hereto, BROWN was an employee and/or agent of PFS and/or FPS, acting within the course and scope of her employment with PFS and/or FPS.

222. Pursuant to section 768.28, Florida Statutes Plaintiff has notified the Defendants of this claim as required, and all conditions precedent have been performed.

223. At all times material hereto, Defendants had a non-discretionary duty to provide A.S. with a safe and appropriate placement and/or shelter, with adequate supervision and care.

224. Defendants further owed A.S. the following non-discretionary duties:

- a. To provide a safe, secure environment where A.S. was free from unreasonable risk of harm;
- b. To use reasonable care to keep A.S. safe while in the Defendants' care and custody;

- c. To use reasonable care in the oversight and supervision of A.S. in their care and custody to ensure that A.S. was adequately supervised and sheltered in a safe and appropriate placement;
- d. To provide ongoing oversight and coordination of services to address behavioral, emotional, and psychiatric needs of children under its care and supervision, including A.S.;
- e. To ensure all necessary and appropriate evaluations and assessments for A.S. were completed in a timely manner when necessary, including but not limited to, Comprehensive Behavioral Health Assessments, Suitability Assessments, mental health assessments, psychiatric assessments, and substance abuse assessments;
- f. To ensure that all recommendations from assessors, evaluators, and other professionals regarding A.S. were followed and implemented in a timely manner;
- g. To ensure that A.S. was Baker Acted when her behavior was a threat to herself, a threat to others, and she met criteria pursuant to Chapter 394, Florida Statutes;
- l. To comply with Florida Statutes, Florida Administrative Code, Department Operating Procedure's, PSF Operating Procedures, and FPS Operating Procedures regarding the safety of A.S. and her need for mental health, psychiatric, and substance abuse services;
- m. To ensure that safety plans or plans of care were implemented to ensure A.S. was safe and appropriately cared for;
- h. To provide any necessary safety measures to ensure A.S. was adequately supervised, in appropriate placements, safe and cared for appropriately
- i. To properly report, investigate and take action on incidents of children in the custody and care of the State of Florida, including A.S., eloping and running away from its physical custody and/or her placements;
- j. To implement reasonable safeguards to prevent children in the custody of the State of Florida, including A.S., from eloping and running away, to immediately report all children known to be missing, including A.S., to law enforcement, the Court, PSF, and the Department, among others, and to take all reasonable and necessary steps and action to take such children back into physical custody, place them in a safe, secure placement, and prevent further runaway behavior.

225. Defendants breached said non-discretionary duties.

226. As a direct and proximate result of the aforementioned breaches, A.S. was injured and damaged while in the care and custody of Defendants, and suffered bodily harm, pain and suffering, mental anguish and psychological trauma, emotional and mental deterioration, discomfort, loss of capacity for the enjoyment of life, lost future earning capacity, medical bills, and other reasonably foreseeable compensatory damages. These losses are either permanent or continuing in nature and A.S.'s Estate will continue to suffer such losses in the future.

227. Said injuries and damages were directly and proximately caused or contributed to by the negligence of PFS and FPS, and their employees and/or agents, including, but not necessarily limited to BROWN.

WHEREFORE, Plaintiff demands judgment against all defendants, for damages in an amount in excess of jurisdictional minimum of this Court plus costs, and requests trial by jury of all issues triable as of right by a jury.

**COUNT VII – 42 U.S.C. § 1983 CLAIM AGAINST
ALL DEFENDANTS FOR DAMAGES UNRELATED TO DEATH**

228. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

229. Plaintiff reavers and realleges paragraphs 1 through 98 above as if fully set forth herein.

230. At all times material hereto, PSF and FPS were “persons” and were acting under the color of state law within the meaning of 42 U.S.C. § 1983.

231. At all times material hereto, Defendant BROWN, as a case worker, case manager, and/or family care counselor performing foster care and related services, was acting under color of state law.

232. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.993(1)(a), Florida Statutes, foster care is a public function traditionally within the exclusive prerogative of the State of Florida.

233. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system, including A.S., had the constitutionally protected right to be safe and free from unreasonable risk of harm.

234. PSF and FPS established and enforced a custom, policy, or practice that failed to require appropriate placements for foster children in accordance with professional judgment.

235. PSF and FPS established and enforced a custom, policy, or practice that failed to ensure that mental health, substance abuse, and behavioral needs of foster children in state custody were assessed, evaluated, and treated in accordance with professional judgment.

236. PSF and FPS established and enforced a custom, policy, or practice on a widespread basis that failed to require recommendations from psychological evaluations, psychiatric evaluations, mental health evaluations, and Suitability Assessments, to be followed in accordance with professional judgment, thereby exposing children in its care to the substantial risk of serious harm.

237. PSF and FPS established and enforced a custom, policy, or practice that failed to require foster children's mental health needs to be met.

238. PSF and FPS established and enforced a custom, policy, or practice which did not have adequate foster care placements to meet the placement needs of foster children in Alachua County.

239. PSF and FPS established and enforced a custom, policy, or practice of allowing foster children with known mental, behavioral, emotional, and substance abuse problems to be

placed in dangerous group homes, emergency shelter placements, and foster homes from where they could, and did, run away, notwithstanding that it was exposing such children to the dangers the substantial risk of serious harm on the streets including criminal acts, drug use, engaging in prostitution, and becoming victims of human trafficking.

240. PSF and FPS established and enforced a custom, policy, or practice of failing to appropriately staff cases and assess children who were recovered from runaway to ensure appropriate services, placement, and a plan of care to prevent further runaway episodes.

241. PSF and FPS were responsible, but failed to ensure that children under their care, including A.S., had a complete and accurate plan of care that addressed their needs consistent with their mental health evaluations and their level of care and failed to continually assess and determine any need for service referrals in accordance with professional judgment.

242. At all times material hereto, PSF and FPS did not provide services or placements to A.S., who was in the physical and legal custody of PSF, FPS and the Department, in accordance with professional judgment, and was deliberately indifferent and/or acted with reckless disregard to A.S.'s health, safety, and welfare and Constitutional and federal rights, including, without limitation, by failing to ensure A.S. received a timely Suitability Assessment as necessary and recommended, failing to ensure that A.S. received a substance abuse assessment and treatment as necessary, failing to ensure that A.S. was placed in a safe environment that could meet her needs, failing to ensure A.S. was given proper assessments and services to prevent her from running away, failing to ensure A.S. was placed in a secure residential treatment facility when recommended, failing to have appropriate and available placements for foster children in Alachua County, and by directly causing A.S.'s mental health condition to deteriorate and exposing A.S. to unnecessary risk of harm.

243. PSF and FPS violated A.S.'s Constitutional rights in that:

- a. PSF and FPS accepted responsibility for the care of A.S. knowing that A.S. was in immediate need of secure residential psychiatric services, but failed to refer her for immediate secure residential psychiatric services and instead repeatedly authorized placement in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.
- b. PSF and FPS accepted responsibility for the custody and care of A.S. knowing that A.S. was at high risk for danger, elopement and running away, had run away multiple times previously, and that she intended to run away from various placements, yet PSF repeatedly authorized placement of A.S. in group homes, emergency shelters, and foster care placements which were dangerous placements which could not protect A.S. from harm.
- c. PSF and FPS accepted responsibility for the care of A.S. knowing that A.S. was in immediate need of therapeutic, behavioral, mental health, psychiatric, psychological, emotional, substance abuse, and residential services but failing to ensure that she was assessed and referred for these immediate services.

244. PSF, FPS, and BROWN were deliberately indifferent to the serious psychiatric and psychological needs of children in its care and custody.

245. At all times that PSF, FPS, and BROWN were taking the actions described herein, it was clearly established that children in the physical custody of the state foster care system, like A.S., have the Constitutionally and federally protected right to receive mental health services in

accordance with professional judgment and not be exposed to deterioration of mental health and emotional harm.

246. Despite possessing the authority and means to remedy the unconstitutional treatment of the child and seek safe and secure therapeutic residential placement and services to address A.S.'s serious mental health needs, PSF, FPS, and BROWN were deliberately indifferent to A.S.'s right to receive treatment for her serious mental health needs by failing to timely assess her emotional, behavioral, mental health, and substance abuse needs, failing to timely address A.S.'s emotional, behavioral, mental health, and substance abuse needs, and failing to ensure A.S. received safe, stable, therapeutic residential placement, which subjected A.S. to further psychological harm and deterioration.

247. Despite possessing the authority and means to remedy the unconstitutional treatment of A.S., PSF, FPS, and BROWN were deliberately indifferent to A.S.'s medical, mental health, behavioral, psychological, emotional, and substance abuse need and the substantial risk that A.S.'s condition would continue to deteriorate and PSF, FPS, and BROWN knowingly and recklessly disregarded an excessive risk to her health and safety.

248. At all times material hereto, PSF, FPS, and BROWN had knowledge of the dangers and risks of harm to foster children and children in state care, and to A.S. in particular, when on runaway status and/or away from their placement without authorization, including, but not necessarily limited to, physical and sexual assault, rape, pregnancy, sexually transmitted diseases, drug and alcohol use, homelessness, prostitution, abduction and kidnaping, domestic violence, human trafficking, murder, suicide, and death (said dangers having been extensively studied, reported upon, and are well known to child welfare professionals throughout the State of Florida and nationwide). Despite this knowledge, in violation of multiple Florida Statutes, Florida

Administrative Code rules, PSF Operating Procedures, and FPS Operating Procedures, PSF, FPS, and BROWN failed to ensure A.S. was placed in a safe placement or a secure facility, failed to ensure A.S. was placed in a safe placement or a secure facility when she returned from runaway, failed to prevent A.S. from eloping and running away, and failed to properly handle a runaway child or a child in danger and at risk of eloping. Rather, PSF, FPS, and BROWN perceived and treated A.S. as a “throwaway child” and actually encouraged, assisted, and/or allowed A.S. to elope and run away, despite the known dangers and risk to A.S.

249. At all times material hereto, PSF, FPS, and BROWN had knowledge that A.S. was likely to elope and run away, and deliberately and/or recklessly failed to take any action to prevent said elopement and runaway episodes and her subsequent injuries.

250. PSF, FPS, and BROWN took said actions described herein knowing it was exposing children who were in State custody, including A.S., to a substantial risk of serious harm.

251. At all times material hereto, PSF, FPS, and BROWN were deliberately indifferent to the safety and welfare of A.S. and knew that A.S. was exposed to a substantial risk of serious harm.

252. PSF, FPS, and BROWN violated A.S.’s fundamental right of physical safety subjecting her to a heightened risk of danger.

253. PSF, FPS, and BROWN’s actions and failures to act were done with knowledge that said actions would deprive A.S. of her constitutional rights to be free from harm.

254. Despite possessing the authority and means to remedy the unconstitutional treatment of A.S. and to seek and secure treatment and a safe, stable, and secure placement to address A.S.’s serious mental health needs, PSF, FPS, and BROWN were deliberately indifferent

to the substantial risk that A.S.'s condition would and did continue to deteriorate and knowingly and recklessly disregarded an excessive risk to her health and safety.

255. As a direct and proximate result of the aforementioned breaches, A.S. was injured and damaged while in the care and custody of Defendants, and suffered bodily harm, pain and suffering, mental anguish and psychological trauma, emotional and mental deterioration, discomfort, loss of capacity for the enjoyment of life, lost future earning capacity, medical bills, and other reasonably foreseeable compensatory damages. These losses are either permanent or continuing in nature and A.S.'s Estate will continue to suffer such losses in the future.

256. Plaintiff and A.S.'s Estate are obligated to the undersigned firms for payment of attorney's fees and costs, and seeks recovery of reasonable attorney's fees and costs pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, the Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against PSF, FPS, and BROWN for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all issues so triable.

DATED this 12th day of May, 2017.

Respectfully submitted,

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